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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,526	06/25/2003	W. Kent Schubert	6882/97504	5754
20567	7590	02/25/2004	EXAMINER	
SANDIA CORPORATION P O BOX 5800 MS-0161 ALBUQUERQUE, NM 87185-0161			LOBO, IAN J	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/606,526

Applicant(s)

SCHUBERT ET AL.

Examiner

Ian J. Lobo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/25/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 11-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is pointed out that the instant application does not include claims 8 and 9. Therefore, the dependency of claims 11-13 and 15 is questioned.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 10, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of the patents to Ando et al ('334, '054) when taken in view of Bernstein ('980).

Figure 3 of either of the Ando et al patents discloses an acoustic analyzer structure. Specifically, the figure shows a microphone (24), at least one resonator (25) and at least one detector (4).

The difference between claim 1 and the Ando et al apparatuses is the claim specifies a "microfabricated resonator" whereas Ando et al disclose a "cantilever resonator".

The patent to Bernstein relates to resonators and more particularly, to the advantages of micromachined (microfabricated) resonators over all other types of resonators. Some of the advantages include the small size and low power of the microfabricated resonators.

Thus, in view of Bernstein, it would have been obvious to one of ordinary skill in the art to have modified either of the systems of Ando et al by substituting a microfabricated resonator for the cantilever resonator so as to achieve miniaturization and low cost. Claim 1 is so rejected.

With respect to claims 2-4, see figures 4-6 of the Ando et al patents.

With respect to claim 5, in as much as a hydrophone and microphone are functionally equivalent acoustic transducers, it would not appear that there is a patentable distinction to using either and thus, the difference, if any, is obvious.

Dependent claims 6 and 10 are provided by Bernstein (col. 5, lines 26-35).

Dependent claim 7 is provided by col. 9, lines 61-67 of either Ando et al patent.

Dependent claims 14 and 16 are further disclosed in Bernstein and Ando et al, respectively.

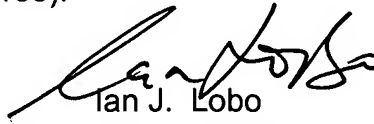
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ian J. Lobo whose telephone number is (703) 306-4161. The examiner can normally be reached on Monday - Friday, 6:30 - 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza can be reached on (703) 306-4171. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ian J. Lobo
Primary Examiner
Art Unit 3662

ijl